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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,421

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Antonius Adrianus Kalker

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10/14/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

POGMORE, TRAVIS D

ART UNIT

PAPER NUMBER

2436

MAIL DATE

DELIVERY MODE

10/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,421	Applicant(s) KALKER ET AL.	
	Examiner Travis Pogmore	Art Unit 2436	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-8 and 14 is/are allowed.
- 6) ☒ Claim(s) 9, 12 and 15 is/are rejected.
- 7) ☒ Claim(s) 10, 11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on June 22, 2009, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Nasser G Moazzami/

Supervisory Patent Examiner, Art Unit 2436.

2. Claims 1-3 and 5-15 are currently pending. Claims 4 and 16 have been canceled. Claims 1-3, 5-9 and 12-15 have been previously presented.

3. Applicant's arguments, with regards to claims 1-3 and 5-15, filed June 22, 2009 have been fully considered but they are not wholly persuasive.

Allowable Subject Matter

4. Claims 1-3, 5-8 and 14 are allowable.
5. The following is an examiner's statement of reasons for allowability:
6. Depovere teaches embedding a watermark being, the embedding being controlled by a watermark secret.
7. Conwell teaches calculating and storing a digital fingerprint.
8. Claim 1 recites deriving a watermark secret from an identifier. This limitation in combination with the other recited limitations of claim 1 is not taught or suggested by the prior art of record. Claim 14 recites equivalent limitations.

Examiner Notes

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

10. Claims 10-11 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections – 35 USC § 102

11. Claims 9 and 15 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Pub. No. US 2002/0154144 A1 (hereinafter "Lofgren").

Lofgren teaches a method of detecting a digital watermark in an information signal; the method comprising

providing a plurality of digital reference fingerprints each calculated from a respective reference information signal, where each digital fingerprint is associated with a corresponding watermark secret (page 4, paragraphs 47-49, each image's specific fingerprint is associated with the image family which is associated with the watermark identifier (i.e., watermark secret));

calculating a digital fingerprint from the information signal (page 4, paragraph 49);

determining a matching digital fingerprint from the plurality of digital reference fingerprints as corresponding to the calculated digital fingerprint (page 4, paragraph 49);

detecting whether a digital watermark according to the watermark secret associated with the matching digital fingerprint is present in the information signal (page 4, paragraph 49, "extracting a digital watermark identifier").

Claim Rejections – 35 USC § 103

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lofgren in view of U.S. Patent Application Pub. No. US 2002/002800 A1 (hereinafter "Conwell").

As to claim 12, Lofgren teaches the method according to claim 9, but does not specifically teach wherein the information signal comprises an encoded information signal; and calculating the digital fingerprint comprises decoding the encoded information signal, and calculating the fingerprint from the decoded information signal.

However, Conwell teaches wherein the information signal comprises an encoded information signal; and calculating the digital fingerprint comprises decoding the encoded information signal, and calculating the fingerprint from the decoded information signal is well known and expected in the art (page 1, column 1, paragraph 11 to column 2, paragraph 12 and paragraphs 19-20; under the broadest reasonable interpretation of an encoded information signal it is inherent that any information signal that is digital (and thus processable by computer as in paragraphs 11-12) is encoded (i.e. in bits which are specifically determined by bit depth and sample rate); it is also inherent that being able being able to acoustically compare songs sampled at differed bit rates (and thus the bits would not be identical) as in paragraphs 19-20 requires that the songs be decoded to some other form before calculating a fingerprint).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Lofgren to calculate fingerprints as in Conwell because this would allow for a variety of modifications (e.g., a certain degree of downsampling) to be made to a signal without generating a new “derivative” object/fingerprint (Lofgren, page 3, paragraphs 35-36).

Response to Arguments

13. Applicant's arguments, with regards to claims 1-3 and 5-15, filed June 22, 2009 have been fully considered but they are not wholly persuasive.

14. On pages 5-9 of the Appeal Brief, Applicant argues with respect to claims 1 and 14 that Depovere, Conwell and Chang do not teach, show or suggest all the claim limitations.

15. Applicant's arguments with respect to claims 1-3, 5-8 and 14 have been fully considered and are persuasive. The rejections thereof have been withdrawn.

16. On pages 9-11 of the Appeal Brief, Applicant argues with respect to claims 9 and 15 that Depovere and Conwell do not teach, show or suggest all the claim limitations.

17. Applicant's arguments with respect to claims 9 and 15 have been considered but are moot in view of the new ground(s) of rejection.

18. Therefore, in view of the above reasons, Examiner maintains rejections as specified above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis Pogmore whose telephone number is (571)270-7313. The examiner can normally be reached on Monday through Thursday between 8:30 a.m. and 4:00 p.m. eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2436

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nasser G Moazzami/
Supervisory Patent Examiner, Art Unit 2436

/Travis Pogmore/
Examiner, Art Unit 2436